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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/629,824

07/30/2003

Nareak Douk

P1354

7296

28390

7590

07/31/2006

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

EXAMINER

AHMED, AAMER S

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/629,824	Applicant(s) DOUK, NAREAK	
	Examiner Aamer S. Ahmed	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 7-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellis et al., US Patent Number 5,514,093.

Ellis discloses a catheter comprising a ling continuous aspiration shaft (12) having a fixed length and an aspiration lumen (see fig. 3) extending between a distal aspiration port (see fig. 3) disposed at a distal tip of the aspiration catheter and a proximal aspiration port (see fig. 3) disposed at a proximal end of the aspiration catheter, the proximal aspiration port adapted to be joined to a source of negative pressure (col. 11 line 29); a proximal tube (16) having a first lumen extending therethrough, wherein the proximal tube 916) is slidably disposed over the aspiration shaft; and a distal tube (24) having a second lumen extending therethrough wherein the distal tube (24) is slidably positionable within the first lumen at least a proximal end of the distal tube (16) is unremovably disposed within the first lumen and the aspiration shaft is unremovable from the second lumen (see fig. 3).

Furthermore Ellis et al discloses that the catheter comprises a guidewire shaft (13) having a guidewire lumen disposed adjacent to and distal of the aspiration shaft.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al in view of Bagaosian et al US Patent Number 6,152,909.

Ellis et al discloses the device as described above, but fails to explicitly disclose that the distal aspiration port is at an oblique angle.

Bagaosian et al discloses a similar device with the distal aspiration port is at an oblique angle (see fig. 5).

It would have been obvious to one having ordinary skill at the time of invention by the applicant to modify the device of Ellis et al by adding the oblique angle distal aspiration port of the type taught by Bagaosian et al., in order to better enter the patient at an oblique angle (col. 3 line 45).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al in view of Berthiaume US Patent Number 5,846,259.

Ellis et al discloses the device as described above including a first distal stop (20) fixedly attached to the interior surface of the proximal tube (16) on a distal end thereof; a third proximal stop (64) fixedly attached to an interior surface of the distal tube (24) on a proximal end thereof (see fig. 3) and a fourth proximal stop (48) fixedly attached to an exterior surface of the aspiration shaft in a distal region thereof.

Ellis et al., fails to explicitly disclose a first and second proximal stop or a second distal stop.

Berthiaume discloses a similar device with a first proximal stop (43) attached to an interior surface of the proximal tube on a proximal end thereof; a second proximal stop (52) and a second distal stop (56).

It would have been obvious to one having ordinary skill in the art at the time of invention by the applicant to modify the device of Ellis et al., by adding the stops of the type disclosed by Berthiaume et al.; in order to better limit movement of the telescopic tubes.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, and 4-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amer S. Ahmed whose telephone number is 571-272-5965. The examiner can normally be reached on Monday thru Friday 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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